

48A C.J.S. Judges § 32

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

II. Selection, Eligibility, and Qualification

A. Selection

2. Manner or Method of Selection

b. Appointment

(2) Nominating Commissions

§ 32. Number of nominees

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A constitutional provision that provides for a judicial nominating commission evinces an intent that the governor can make an actual choice with respect to filling a judicial vacancy.

A constitutional provision that provides for a judicial nominating commission evinces an intent that the governor will have before him or her a list with more than one nominee recommended by commission so that the governor can make an actual choice with respect to filling a judicial vacancy.¹ However, where a state constitution requires a commission to submit "not less than three" nominees to the governor for his or her appointment to fill a judicial vacancy, a statute that increases the number of candidates the commission must submit is unconstitutional.² Such a statute simultaneously increases the governor's discretion and narrows the commissioners' constitutionally granted discretion.³

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Footnotes

- 1 N.M.—State of N.M. ex rel. Richardson v. 5th Judicial Nominating Commission, 2007-NMSC-023, 141 N.M. 657, 160 P.3d 566 (2007).

- 2 Ariz.—Dobson v. State ex rel., Com'n on Appellate Court Appointments, 233 Ariz. 119, 309 P.3d 1289 (2013).
- 3 Ariz.—Dobson v. State ex rel., Com'n on Appellate Court Appointments, 233 Ariz. 119, 309 P.3d 1289 (2013).

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